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101-327

AUTHORITY TO MAKE DIRECT CONTRIBUTIONS TO FEHBP; FEGLI TECHNICAL AMENDMENT

NOVEMBER 1, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. FORD, of Michigan, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 1805]

[Including cost estimate of the Congressional Budget Office and summary of oversight findings and recommendations of the Committee on Government Operations]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 1805) to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings; to eliminate the reinsurance requirement under the Federal employees life insurance program; and to make a technical correction relating to the life insurance program, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. HEALTH BENEFITS.

(a) AUTHORITY FOR DIRECT PAYMENTS.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

"(i) An annuitant whose annuity is insufficient to cover the withholdings required for enrollment in a particular health benefits plan may enroll (or remain enrolled) in such plan, notwithstanding any other provisions of this section, if the annuitant elects, under conditions prescribed by regulations of the Office, to pay currently into the Employees Health Benefits Fund, through the retirement system that administers the annuitant's health benefits enrollment, an amount equal to the withholdings that would otherwise be required under this section."

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8906 of title 5, United States Code, is further amended—

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(1) in subsection (c), by inserting "(except as provided in subsection (i) of this section)" before "the annuity"; and

(2) in subsection (d), by inserting "(except as provided in subsection (i) of this section)" before "from the annuity".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act. Any annuitant whose enrollment was terminated at any time before such date on account of such annuitant's annuity being insufficient to cover the amount of the required withholdings may, under regulations prescribed by the Office of Personnel Management, be prospectively reinstated in any available health benefits plan upon application of the annuitant.

SEC. 2. TECHNICAL CORRECTION IN LIFE INSURANCE PROVISIONS.

Section 8708 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as otherwise provided in this subsection, for each period in which an employee continues life insurance after retirement or while in receipt of compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee, as provided under section 8706(b) of this title, a sum equal to one-half of the amount which is withheld from the employee's annuity or compensation under section 8707 of this title shall be contributed by the Office from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

"(2) Contributions under this subsection—

"(A) shall not be made other than with respect to individuals who retire, or commence receiving compensation, after December 31, 1989;

"(B) shall not be made with respect to any individual for months after the calendar month in which such individual becomes 65 years of age; and

"(C) shall, in the case of any individual who elects coverage under subparagraph (B) of section 8706(b)(3) of this title, be equal to the amount which would apply under this subsection if such individual had instead elected coverage under subparagraph (A) of such section.

"(3) The United States Postal Service shall pay the contributions required under this subsection with respect to any individual who—

"(A) first becomes an annuitant by reason of retirement from employment with the United States Postal Service after December 31, 1989; or

"(B) commences receiving compensation under subchapter I of chapter 81 of this title (because of disease or injury to the individual) after December 31, 1989, if the position last held by the individual before commencing to receive such compensation was within the United States Postal Service."

Amend the title so as to read:

A bill to amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and to make a technical correction relating to the life insurance program.

EXPLANATION OF COMMITTEE AMENDMENTS

The committee amendment to the text of the bill strikes everything after the enacting clause and inserts an entirely new text. The explanation of the committee substitute is contained in the explanation of the bill set forth later in this report. The title of the bill is amended to reflect the provisions of the substitute text.

PURPOSE

The purpose of this legislation is (1) to permit direct payment of health insurance premiums to the Employees Health Benefits Fund by Federal annuitants whose annuities are insufficient to cover the withholdings required for enrollment in a particular Federal Employees' Health Benefits Program (FEHBP) plan; and (2) to authorize a Government contribution for participants in the Federal Employees Group Life Insurance (FEGLI) program who retire after December 31, 1989, and are under the age of 65.

COMMITTEE ACTION

H.R. 1805 was introduced by Chairman Ackerman, for himself, and Representative Myers of Indiana, on April 12, 1989. On September 26, 1989, the Subcommittee on Compensation and Employee Benefits approved H.R. 1805, with an amendment in the nature of a substitute, for full committee consideration. On October 25, 1989, the Committee on Post Office and Civil Service ordered H.R. 1805, as amended, favorably reported by voice vote, a quorum being present.

SUMMARY

H.R. 1805, as amended, amends section 8906 of title 5, United States Code, to permit Federal annuitants to make contributions for health benefits through direct payments, rather than through annuity withholdings, if their annuities are insufficient to cover the required withholdings for their health insurance premiums. In addition, the legislation amends section 8708 of title 5, United States Code, to authorize the appropriation of funds necessary for the Government to contribute to the Federal Employees' Group Life Insurance (FEGLI) program on behalf of certain employees who retire after December 1989 and are under the age of 65.

STATEMENT

HEALTH BENEFITS

Current law requires that the enrollee share of health plan premiums under the Federal Employees Health Benefits Program (FEHBP) be withheld from the pay of each enrolled employee and from the annuity of each enrolled annuitant. As a result, if an employee's salary or retiree's annuity is insufficient to cover the enrollee's share of a particular plan premium, the enrollee has no choice but to either elect a lower cost plan or to forgo FEHBP coverage. At the time the FEHBP was enacted, it was not anticipated tha health benefits costs would escalate to the level where enrollee premiums could not be fully covered by an enrollee's salary or annuity. With medical care and health insurance costs far outpacing Federal retirement cost-of-living adjustments in recent years, many annuitants with small annuities have been forced to change to "self-only" enrollment or to drop their health insurance completely.

H.R. 1805 responds to this dilemma by permitting an enrollee whose annuity is insufficient to cover the premium for a particular FEHBP plan to pay the required enrollee premium directly into the Employees Health Benefits Fund through the retirement system that administers his or her FEHBP enrollment. It is the committee's intent that such an enrollee should be provided the same degree of choice among the FEHBP plan as is available to other enrollees.

While the Office of Personnel Management administers health benefits enrollment for most annuitants, the committee realizes there are instances where OPM does not administer such enrollment (e.g., certain annuitants of the Central Intelligence Agency). Accordingly, the legislation provides that direct payments for

health plan enrollment shall be made through the appropriate retirement system that administers such annuitant's enrollment.

While the amendments to section 8906 of title 5, United States Code, are effective on the date of enactment, the bill permits application for prospective reinstatement in any available health benefits plan of any annuitant whose enrollment was terminated at any time prior to such date due to the annuity being insufficient to cover withholdings required for continued FEHBP enrollment. The bill directs OPM to promulgate regulations to implement the prospective reinstatements.

LIFE INSURANCE

In effort to enhance insurance coverage for employees under the age of 45 while maintaining cost-neutrality within the program, the Federal Employees' Group Life Insurance Act of 1980 (Public Law 96-427) amended the FEGLI law to require employees who retire or begin receiving workers' compensation after 1989, and who elect to retain basic life insurance coverage, to continue paying the employee share of the insurance premiums from their annuities or compensation until age 65. However, through oversight, the 1980 Act failed to authorize funding of the Government's share of the cost of basic life insurance coverage for such annuitants and employees. Section 2 of H.R. 1805 corrects this oversight.

As introduced, H.R. 1805 included a provision to repeal section 8710 of title 5, United States Code. Section 8170 requires the Office of Personnel Management (OPM) to arrange with a company issuing a policy under chapter 87 (FEGLI) for the reinsurance of portions of the total amount of insurance under the policy through other life insurance carriers. This requirement has resulted in the primary insurer (the Metropolitan Life Insurance Company) reinsuring portions of the total insurance in force with other companies having a share of the group coverage market. During the 100th Congress, the Committee on Government Operations issued a report on the FEGLI reinsurance requirement (House Report 100-703). The report concluded that, since the Federal Government is contractually obligated to reimburse the prime insurer for all FEGLI claims, the reinsurance payments are unnecessary. The report concluded that FEGLI is, for all practical purposes, self-insured by the Federal Government.

After careful consideration of the reinsurance issue, the Subcommittee on Compensation and Employee Benefits decided to strike the reinsurance-repeal provision from H.R. 1805. The subcommittee has been advised that the Metropolitan Life Insurance Company and the Office of Personnel Management are discussing prospects for reducing the reinsurance charge to more accurately reflect the carriers' true risk under the FEGLI program. While repeal of section 8710 may yet prove to be the appropriate course of action, the committee believes that the present discussions between OPM and Metropolitan Life should be given a chance to succeed. If the negotiations between Metropolitan Life and OPM are unsuccessful, or if the agreed-upon reinsurance charge does not more accurately reflect the carriers' true risk under the FEGLI program, the commit-

tee will reexamine the reinsurance issue and pursue an appropriate legislative remedy.

Section Analysis

Section 1. Health benefits

Subsection (a) of section 1 of H.R. 1805, as amended by the committee, amends section 8906 of title 5, United States Code, by adding a new subsection (i). The new subsection (i) permits an annuitant whose annuity is insufficient to cover the withholdings required for enrollment in a particular FEHB plan to contribute the premium directly to the Employees Health Benefits Fund through the retirement system that administers the annuitant's health plan enrollment. The Office of Personnel Management shall prescribe the conditions under which annuitants may elect direct payments.

Subsection (b) of section 1 makes technical amendments to section 8906 of title 5, to provide for exceptions to the existing annuity withholding requirements in order to conform with the new section 8906(i).

Subsection (c) provides that the amendments made by section 1 shall be effective on date of enactment. In addition, subsection (c) provides that any annuitant whose enrollment was terminated prior to the date of enactment because the annuity was insufficient to cover the amount of the FEHB withholdings may, upon application, be prospectively reinstated into any available health benefits plan.

Section 2. Technical corrections in life insurance provisions

Section 2 of the bill amends section 8708 of title 5, United States Code, by adding a new subsection (d).

Paragraph (1) of the new subsection (d) directs the Office of Personnel Management to contribute, from annual appropriations authorized by the new subsection, a sum equal to one-half of the amount which is withheld from an employee's annuity or workers' compensation benefits for basic life insurance coverage for each period in which an employee continues life insurance coverage after retirement or while in receipt of workers' compensation.

Paragraph (2) of the new subsection (d) limits the OPM contribution to individuals who retire, or commence receiving compensation, after December 31, 1989, and who are under 65 years of age. In addition, the OPM contribution is limited to one-half of the amount that is withheld for basic life insurance coverage even in the event the individual elects either the 50 percent or no reduction option available under the FEGLI program.

Paragraph (3) of subsection (d) requires the United States Postal Service to make the same contribution required of OPM in the case of any individual who first becomes an annuitant by reason of retirement from employment with the Postal Service after December 31, 1989, or in the case of an individual who commences receiving workers' compensation after December 31, 1989, if the position last held by the individual before commencing to receive such compensation was within the Postal Service.

The cost estimate prepared by the Congressional Budget Office pursuant to section 308 and 403 of the Congressional Budget Act of 1974 is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 27, 1989.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1805, as ordered reported by the Committee on Post Office and Civil Service on October 25, 1989. This bill would allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings. In addition, H.R. 1805 would make technical corrections to the Federal Employees Group Life Insurance (FEGLI) program relating to government contributions. CBO estimates that enactment of H.R. 1805 would have no significant budgetary impact.

Under current law, there is no provision for annuitants to pay their share of health benefit premiums directly to the FEHB Fund; instead annuitants' contributions are withheld from their annuity payments. Because premiums for some FEHB plans are now high enough to exceed the annuity payments for a small, but increasing, number of annuitants, the Office of Personnel Management (OPM) has had to ask annuitants to switch to less expensive plans or lose their coverage. For virtually all those who are able to switch, government contributions do not change because for most plans chosen by annuitants; the government contributions is already at the maximum amount, even for less expensive plans. For some small number of annuitants (i.e., less than 100 last year), there were no plans available the cost of which was equal to or less than their annuity. These annuitants lost FEHB coverage as a result.

The change proposed by H.R. 1805 would allow OPM to establish administrative procedures permitting annuitants to pay directly their health plan contributions in cases where the annuity is insufficient to cover the amount due. To the extent this change would eliminate an element of current law that leads to lower payments for annuitants health benefits (by dropping some annuitants from FEHB coverage), this section of H.R. 1805 would lead to outlays higher than the projected baseline payments. However, because the number of annuitants affected is so low, CBO considers the budget impact to be negligible.

H.R. 1805 also inserts a new section to title 5, U.S. Code, that makes a technical correction to the FEGLI Act of 1980. This section authorizes that OPM contribute from annual appropriations one-half the amount which is withheld from the employee's annuity to be applied to an annuitant's life insurance premium. The OPM contribution would be limited to cover employees who retire after December 31, 1989, and who are under age 65. There would be no budgetary impact from his section as CBO baseline already assumes this appropriation to cover premiums of employees who will retire after December 31, 1989, and will be under age 65.

In addition, the new section states that the postal service would have to make FEGLI premium contributions for its employees who will retire after December 31, 1989 and will be under age 65. This change would lower the payments out of the government payments for annuitants account but would increase by an equal amount the payments of the postal service. Therefore, there would be no net budgetary impact.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Cathy Ellman and Alan Fairbank (226-2820).

Sincerely,

ROBERT D. REISCHAUER,
Director.

OVERSIGHT

Under the rules of the Committee on Post Office and Civil Service, the Subcommittee on Compensation and Employee Benefits is vested with legislative and investigative jurisdiction over the subject matter of this legislation. As a result of its investigations and consideration, the subcommittee concluded that there is ample need and justification for the enactment of this legislation.

REPORT OF COMMITTEE ON GOVERNMENT OPERATIONS

On June 20, 1988, the committee received from the Committee on Government Operations, pursuant to clause 4(c)(2) of House Rule X, a copy of House Report 100-703 entitled: "Federal Government Payments to Reinsurers Under FEGLIA: The $850,000 Annual Giveaway". Set forth below is a summary of the findings and recommendations contained in that report:

FINDINGS

1. The Federal Government is in effect a self-insurer of the FEGLI Program.
2. Since the Federal Government is contractually obligated to reimburse the prime insurer for all FEGLI claims, no insurance risk is being assumed by anyone except the Federal Government.
3. It is inappropriate for the Federal Government to continue to pay risk charges to insurance companies who are not at risk.
4. In the 33 years the FEGLI Program has been in existence, no reinsurer has ever had to pay out a nickel.

RECOMMENDATIONS

1. Congress should repeal section 8710 of title 5, United States Code, which requires reinsurance and the payment of risk charges.
2. Upon repeal of section 8710, the contract between OPM and Metropolitan Life should be renegotiated to provide a reasonable profit to Metropolitan for processing claims and administering the program.

Inflationary Impact Statement

Pursuant to 2(l)(4) of House Rule XI, the committee has concluded that the enactment of H.R. 1805 will have no inflationary impact on the national economy.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 87—LIFE INSURANCE

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§ 8708. Government contributions

(a) * * *

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(d)(1) Except as otherwise provided in this subsection, for each period in which an employee continues life insurance after retirement or while in receipt of compensation under subchapger I of chapter 81 of this title because of disease or injury to the employee, as provided under section 8706(b) of this title, a sum equal to one-half of the amount which is withheld from the employee's annuity or compensation under section 8707 of this title shall be contributed by the Office from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

(2) Contributions under this subsection—

(A) shall not be made other than with respect to individuals who retire, or commence receiving compensation, after December 31, 1989;

(B) shall not be made with respect to any individual for months after the calendar month in which such individual becomes 65 years of age; and

(C) shall, in the case of any individual who elects coverage under subparagraph (B) of section 8706(b)(3) of this title, be equal to the amount which would apply under this subsection if

such individual had instead elected coverage under subparagraph (A) of such section.

(3) The United States Postal Service shall pay the contributions required under this subsection with respect to any individual who—

(A) first becomes an annuitant by reason of retirement from employment with the United States Postal Service after December 31, 1989; or

(B) commences receiving compensation under subchapter I of chapter 81 of this title (because of disease or injury to the individual) after December 31, 1989, if the position last held by the individual before commencing to receive such compensation was within the United States Postal Service.

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CHAPTER 89—HEALTH INSURANCE

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§ 8906. Contributions

(a) * * *

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(c) There shall be withheld from the pay of each enrolled employee and *(except as provided in subsection (i) of this section)* the annuity of each enrolled annuitant and there shall be contributed by the Government, amounts, in the same ratio as the contributions of the employee or annuitant and the Government under subsection (b) of this section, which are necessary for the administrative costs and the reserves provided for by section 8909(b) of this title.

(d) The amount necessary to pay the total charge for enrollment, after the Government contribution is deducted, shall be withheld from the pay of each enrolled employee and *(except as provided in subsection (i) of this section)* from the annuity of each enrolled annuitant. The withholding for an annuitant shall be the same as that for an employee enrolled in the same health benefits plan and level of benefits.

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(i) An annuitant whose annuity is insufficient to cover the withholdings required for enrollment in a particular health benefits plan may enroll (or remain enrolled) in such plan, notwithstanding any other provision of this section, if the annuitant elects, under conditions prescribed by regulations of the Office, to pay currently into the Employees Health Benefits Fund, through the retirement system that administers the annuitant's health benefits enrollment, an amount equal to the withholdings that would otherwise be required under this section.

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